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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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CHRISTOPHER LEON SMITH,

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Plaintiff,

CASE NO. C09-5269FDB

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v.

ORDER ON PENDING
MOTIONS

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PIERCE COUNTY CORRECTIONS
FACILITY, *et al*.,

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Defendants.

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  This Civil Rights Action has been referred to United States Magistrate Judge J. Richard

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Creatura pursuant to 28 U.S.C. § 636(b)(1)(A) and 636 (b)(1)(B), and Local Magistrate Judge's

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Rule MJR3 and MJR4. Before the Court are two motions filed by Plaintiff (Dkt. # 15 and 22).

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  In the first motion Plaintiff asks the court to appoint counsel. There is no right to have

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counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court can request

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counsel to represent a party, 28 U.S.C. § 1915(e) (1), the court may do so only in exceptional

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circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v.

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Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980).
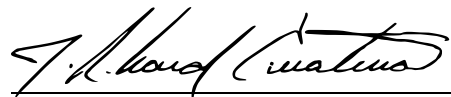
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1 A finding of exceptional circumstances requires an evaluation of both the likelihood of success

2 on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the

3 complexity of the legal issues involved. <u>Wilborn</u>, 789 F.2d at 1331.

4   Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* (Dkt # 8).

5 The Motion is DENIED.

6   In the next motion Plaintiff asks for a thirty-day extension of time to respond to

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8 Defendants' Motion to Dismiss (Dkt. # 22). The Motion for an extension of time is GRANTED.

9 Defendants' Motion to Dismiss is re-noted for September 25, 2009. Any response Plaintiff may

10 wish to file must be mailed on or before September 14, 2009. Any reply Defendants may wish to

11 file must be filed by September 24, 2009.

12   The Clerk's Office is directed to remove Dkt. # 15 and 22 from the Court's calendar and

13 to re-note Dkt. # 18 for September 25, 2009.

14   DATED this 17th day of August, 2009.

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18 J. Richard Creatura
   United States Magistrate Judge

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ORDER - 2